

REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1, 4-7, 10, 11, 14-17, 20, 21, 24-27, and 30 are currently pending. No claims have been amended herewith.

In the outstanding Office Action, Claims 1, 4-7, 10, 11, 14-17, 20, 21, 24-27, and 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0174873 to Giger et al. (hereinafter “the ‘873 application”) in view of U.S. Patent No. 5,671,294 to Rogers et al. (hereinafter “the ‘294 patent”).

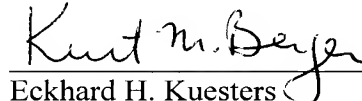
Regarding the rejection of all of the pending claims under 35 U.S.C. §103(a), as being unpatentable over the ‘873 application and the ‘294 patent, the present application and the ‘873 application were, at the time the invention of the present application was made, owned by the University of Chicago. See Statement of Common Ownership. Accordingly, since the ‘873 application claims priority to a provisional application filed on February 8, 2002, and was published on September 18, 2003, the ‘873 application qualifies as prior art only under 35 U.S.C. §102(e), since the present application claims benefit to provisional Application No. 60/447,295, filed February 14, 2003. Accordingly, based on the provisions of 35 U.S.C. §103(c), the ‘873 application cannot be used in a rejection under 35 U.S.C. §103(a) against the claims in the present application. See M.P.E.P. §706.02(l)(2). Accordingly, Applicants respectfully request that the rejection of all of the pending claims as being unpatentable over the ‘873 application and the ‘294 patent be withdrawn.

Thus, it is respectfully submitted that independent Claims 1, 11, and 21 (and all associated dependent claims) patentably define over any proper combination of the ‘873 application and the ‘294 patent.

Consequently, in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The present application is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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